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In the Court of Claims.

THE CHEROKEE NATION
vs.
THE UNITED STATES. } No. 23199.

THE EASTERN CHEROKEES
vs.
THE UNITED STATES. } No. 23214.

THE EASTERN AND EMIGRANT
CHEROKEES
vs.
THE UNITED STATES. } No. 23212.

Abstract of Decree of May 28, 1906, as modified by the order of April 29, 1907.

These consolidated causes came on to be further heard upon the motion of the attorneys for the Eastern Cherokees for the modification of the original decree of May 18, 1905, in accordance with the mandate of the Supreme Court of the United States heretofore presented; and it appearing to the court that by the said mandate it is provided that the second subdivision of the fourth paragraph of the said decree be modified so as to direct the distribution of the fund described in item two of the said decree to be made to the Eastern Cherokees as individuals, whether east or west of the Mississippi River, parties to the Treaties of 1835-6 and 1846, exclusive

of the Old Settlers, it is therefore so ordered and decreed this 28th day of May, 1906, and

This cause coming on to be heard under the order of this court of March 5, 1907, upon the reference of the Secretary of the Interior to the court of February 20, 1907, and upon the petition of Henry C. Meigs and others, filed in said cause, and the court having heard argument and considered the just rights of all persons in interest; and the court having been requested by the Secretary of the Interior, in a letter bearing date of April 10, 1907, to provide for the enrollment of the Eastern Cherokees and the distribution of the fund arising from the judgment in their favor under the direct supervision and authority of the court, and a prayer to this effect being contained in said petition of Henry C. Meigs and others; it is this 29th day of April, 1907, ordered that that direction of the decree of the court of May 28, 1906, which provides that the Secretary of the Interior shall prepare, or cause to be prepared, a list or roll of all persons entitled to share in the fund arising from said decree, and to make distribution of said fund, be, and the same is hereby vacated.

It further appearing to the court that the lands disposed of by the Eastern Cherokees under the Treaties of 1835-6 and 1846, were owned by them as a community, and the rights arising under said treaties, as established by the decree of May 28, 1906, accrued to the said Eastern Cherokees as communal owners of said land; and it further appearing from the report of Special Agent Guion Miller, accompanying the reference of the Secretary of the Interior of February 20, 1907, above referred to, that a *per stirpes* distribution to the Eastern Cherokees who were parties to the Treaties of 1835-6 and 1846 is impracticable; it is therefore further ordered that the commissioner hereinafter named shall enroll, as entitled to share in the fund arising from said decree of May 28, 1906, all such individual Eastern Cherokee Indians, by blood, living on May 28, 1906, as shall establish the fact that they were

members of the Eastern Cherokee Tribe of Indians at the date of the Treaty of 1835-6 and 1846, or are descendants of such persons, and who shall further establish the fact that they have not been affiliated with any tribe of Indians other than the Eastern Cherokees or the Cherokee Nation; provided further that said persons, pursuant to the notices of the Commissioner of Indian Affairs, bearing dates of August 20, 1906, and February 1, 1907, have filed applications for a share of such fund with the Commissioner of Indian Affairs, or shall file such applications with the commissioner hereinafter named on or before the 31st day of August, 1907.

When the roll of persons entitled to participate in the fund shall have been made by the said commissioner, as hereinbefore provided, it shall be submitted to the court for its approval.

The records of the Department of the Interior, so far as they relate to the subject matter of these proceedings, shall be accepted by said commissioner as a part of the record of this case, and all matters of fact ascertained and determined by the Secretary of the Interior, not in conflict with the decrees and orders of this court, shall be accepted and acted upon by said commissioner as fully and correctly established and determined, except where it may be shown that a mistake of fact has been committed.

It is further ordered that Guion Miller, Esquire, be, and he is hereby designated and appointed as special commissioner of this court to prepare a roll of all persons entitled under the terms and conditions of the decrees and orders of this court to share as Eastern Cherokees in the fund arising from the decree aforesaid. Said commissioner shall from time to time proceed to such points in the United States as he may find it necessary and expedient to make a special investigation in the field, and shall have power to summon witnesses, administer oaths, and do everything needful for the proper discharge of his duties as herein set forth. Said commissioner shall receive, in addition to his necessary traveling

expenses when engaged in investigation in the field, compensation at the rate of Three Hundred and Fifty Dollars per month.

Said commissioner shall have authority, with the approval of the court, to employ such assistants and clerical force as may be found necessary and pay them such compensation as shall be approved by the court. Such assistants when so authorized and directed by the said special commissioner, shall in like manner have power to summon witnesses, administer oaths, and take testimony necessary to be taken in the premises.

It is further ordered that all the expenses, incurred in carrying into effect the provisions of this decree, together with the expenses already incurred in making publication of said order of March 5, 1907, shall, upon the proper certificate made under oath by said commissioner, and duly approved by the court, be paid by the Secretary of the Treasury out of the appropriation made by the act of Congress of June 30, 1906, to pay said judgment in favor of the Eastern Cherokee Indians as aforesaid.

April 29 / 07